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**DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT**

ALASKA PUBLIC UTILITIES COMMISSION

1016 WEST SIXTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501-1963
PHONE: (907) 276-6222
FAX: (907) 276-0160
TTY: (907) 276-4533

February 25, 1998

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 98-4
GCI Petition

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Dear Mr. Caton:

Enclosed are an original and twelve copies of the Comments of the Alaska Public Utilities Commission in response to the Public Notice (DA98-140) in CC Docket No. 98-4 regarding the petition by General Communication, Inc. for federal preemption of section 52.355 of Title 3 of the Alaska Administrative Code.

Sincerely,

ALASKA PUBLIC UTILITIES COMMISSION



Sam Cotten, Chairman

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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
General Communication, Inc.)
Petition for Preemption)
Pursuant to Section 253 of)
the Communications Act of 1934)

CC Docket 98-4

Comments of the
Alaska Public Utilities Commission

Date: February 25, 1998 Sam Cotten, Chairman
Alaska Public Utilities Commission
1016 West Sixth Avenue, Suite 300
Anchorage, Alaska 99501

SUMMARY

The Alaska Public Utilities Commission (APUC) opposes the Petition by General Communication, Inc. (GCI), for preemption under section 253 of the Communications Act (47 U.S.C. §253) of section 52.355 of Title 3 of the Alaska Administrative Code. Any possible preemption of this regulation would be premature. Enforcement of 3 AAC 52.355 remains necessary until it can be assured that revocation does not compromise universal service and public safety. The APUC will decide this matter once scheduled reports are filed and its investigation is completed.

In any event, this regulation has not been implemented in a manner that violates competitive neutrality principles because options exist to allow any interexchange carrier to build in any part of rural Alaska. The APUC has never denied a request by a carrier to construct rural facilities. Neither GCI nor any other certificated carrier has a pending request before the APUC to begin such construction. Moreover, the Federal Communications Commission has a policy that is essentially the same as the state regulation at issue in this proceeding. As a result, preservation of 3 AAC 52.355 creates no harm in the short term and allows the APUC to fully analyze the policy aspects to ensure no harm to the public interest, and especially to universal service.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554-3271008

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In the Matter of)
General Communication, Inc.) CC Docket 98-4
Petition for Preemption)
Pursuant to Section 253 of)
the Communications Act of 1934)

Comments of the
Alaska Public Utilities Commission

The Alaska Public Utilities Commission (APUC) appreciates the opportunity to file comments in response to the January 28, 1998, Public Notice (DA 98-140) by the Federal Communications Commission (Commission or FCC) on the petition for preemption filed by General Communication, Inc. (GCI).

On February 10, 1997, GCI filed a petition with the APUC seeking a declaratory ruling that section 52.355 of Title 3 of the Alaska Administrative Code (3 AAC 52.355) was invalid and would not be enforced as the section was contrary to §253 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (The Act). The provisions of 3 AAC 52.355 limit interexchange carriers other than Alascom, Inc. d/b/a AT&T Alascom (AT&T Alascom) from constructing facilities in many rural areas of Alaska, absent APUC review and approval of a construction request. GCI's arguments are based on its interpretation of §253(a) of the

1 Act, which states in part: "No State . . . may prohibit or have
2 the effect of prohibiting the ability of any entity to provide any
3 interstate or intrastate telecommunications services."

4 The APUC issued public notice of GCI's petition inviting
5 written comment. The APUC also scheduled oral argument and
6 required legal briefs on GCI's claim that §253 invalidates 3 AAC
7 52.355. Many of the comments and oral arguments before the APUC
8 opposed GCI's position. After review, the APUC determined that
9 GCI's conclusions ignored key policy issues, including universal
10 service, that the APUC believes must be evaluated to protect the
11 public interest. The APUC determined that further information was
12 needed before any repeal action could be taken on 3 AAC 52.355
13 given the nature of the Alaska market.

14 GCI now has filed a petition before the Commission seeking
15 preemption of 3 AAC 52.355. The APUC remains convinced that
16 revoking 3 AAC 52.355 at this time would be premature,
17 unnecessary, and contrary to §253(b) which permits states to
18 impose requirements necessary to preserve universal service,
19 protect the public safety, and safeguard the rights of consumers.

20 I. Requirements of The Act

21 The APUC reviewed the requirements of The Act pertinent to
22 the GCI petition. Section 253 states, in part:
23

24 (a) No State or local statute or regulation, or
25 other State or local legal requirement, may prohibit or
26 have the effect of prohibiting the ability of any entity
to provide any interstate or intrastate
telecommunications service.

1 (b) Nothing in this section shall affect the
2 ability of a State to impose, on a competitively neutral
3 basis and consistent with section 254, requirements
4 necessary to preserve and advance universal service,
5 protect the public safety and welfare, ensure the
6 continued quality of telecommunications services, and
7 safeguard the rights of consumers.

8 The key issue of this proceeding is whether the provisions of
9 3 AAC 52.355 are an allowable exception under §253(b). On this
10 point the APUC will demonstrate that at the present time

11 1) 3 AAC 52.355 is necessary to preserve the public
12 interest, protect the public safety, and promote
13 universal service;

14 2) revoking 3 AAC 52.355 would be inconsistent with
15 §254 of The Act and, thus, §253(b);

16 3) revoking 3 AAC 52.355 is not necessary to
17 protect competitive neutrality; and

18 4) preemption at this time is unnecessary and
19 interferes with the APUC's performance of its
20 jurisdictional obligations.

21 **II. Revoking 3 AAC 52.355 abruptly and without a new**
22 **comprehensive policy in its place could compromise competition and**
23 **universal service in Alaska and is contrary to section 253(b). It**
24 **is necessary to investigate key policy issues.**

25 The APUC is obligated to enforce existing Alaska Statutes
26 promoting competition for provision of long distance services:

AS 42.05.800(2): facilities based, long distance
telephone service should be provided competitively
wherever possible.

AS 42.05.800(6): the [APUC] should provide for
competition in a timely manner and should adopt
regulations that eliminate inappropriate impediments to

1 entry for long distance carriers fit, willing, and able
2 to provide service.

3 Alaska interexchange carrier regulations, including 3 AAC
4 52.355, were designed as a whole to support competition in a fair
5 manner while protecting the public interest. Overall, these
6 regulations have been successful in that AT&T Alascom faces stiff
7 competition with its competitors who collectively hold roughly
8 30 percent of the Alaska intrastate interexchange market.

9 The APUC's state regulations were designed to make
10 competition work, taking into consideration the difficulties of
11 providing long distance, carrier-of-last-resort services where
12 88 percent of the locations served are thin routes (low population
13 under 500), located in some of the remotest, most difficult to
14 serve areas in the nation. In addition, dependency on satellite
15 technology, the only means present to serve the majority of these
16 locations, creates high costs, further complicating the APUC's
17 task of ensuring universal toll service at affordable rates. In
18 recognition of Alaska's particular universal service needs and
19 dependency on satellite technology, the Commission directed that
20 AT&T Alascom "may not ignore, evade, or transfer its
21 responsibility to provide rural Alaska satellite service without
22 first obtaining Commission approval."¹

23 In 1990, the APUC carefully crafted its existing regulations
24 to promote competition yet ensure affordable universal toll
25

26 ¹CC 83-1376, Memorandum Opinion and Order (CC 83-1376 MO&O),
FCC 94-116, p. 34 (May 1994).

1 service given the difficult Alaska conditions. An inherent part
2 of these regulations is an appropriate balance between universal
3 service protections and competitive flexibility.

4 Long distance service throughout Alaska exists because AT&T
5 Alascom provides carrier-of-last-resort services in the market.
6 Residents in Bush Alaska are highly dependent upon toll calling
7 for emergency and other key services. Many communities have no
8 resident doctor and rely on toll calling for medical assistance.
9 In remote areas of the state, there may be no local grocery store,
10 no local access to government services, and limited business
11 opportunities. Access to high quality, affordable long distance
12 services is therefore indispensable for the economic and physical
13 well being of individuals in Alaska. If AT&T Alascom's ability to
14 provide carrier-of-last-resort service is compromised as a result
15 of revoking 3 AAC 52.355, then universally available toll service
16 may be compromised.

17 Issues have been raised before the APUC in its Docket R-97-1
18 proceeding suggesting that the APUC's ability to require a carrier
19 to function as a carrier of last resort may be compromised if the
20 competitive neutrality objectives of §253 are not properly
21 balanced with universal-service objectives. The APUC urgently
22 requests that the Commission not interpret §253 in such a way as
23 to compromise the APUC's ability to regulate the intrastate market
24 and require a carrier of last resort.

25 The APUC recognizes that the ability for any carrier to
26 function as a carrier of last resort in a competitive market

1 depends upon the market rules applied to it, including equitable
2 contribution towards universal service mechanisms. Such rules
3 must be fair to all carriers in the market. The APUC believes
4 revoking 3 AAC 52.355, in the absence of a comprehensive market
5 policy regarding competition and universal service, could well
6 unduly discriminate against resellers and AT&T Alascom, the
7 carrier of last resort in Alaska. Such a situation could
8 compromise competitively provided, universally available, long
9 distance services at reasonable rates.

10 For example, Alaska's existing universal service mechanism²
11 may not provide adequate support for toll services if 3 AAC 52.355
12 is eliminated and market share, per-minute-system costs, and
13 revenue resources in the market change. If support is inadequate,
14 AT&T Alascom will be forced to cross-subsidize its rural
15 operations, or may fail in its carrier of last resort
16 responsibilities. All resellers as well as AT&T Alascom would be
17 competitively and financially affected (possibly to differing
18 degrees) if the existing universal service mechanism is
19 inadequate. If support is not "sufficient and predictable," then
20 revocation would be contrary to §253(b) as it would be
21 inconsistent with §254.

22 Given the above, the APUC determined that it was necessary to
23 proceed cautiously and further investigate policy issues instead
24 of prematurely revoking 3 AAC 52.355 and potentially compromising
25

26 _____
²Referred to as the Bulk Bill system.

1 universal service. However, changes to the universal service
2 mechanism, including revising the intrastate market structure to
3 comply with all the provisions of §253, cannot occur overnight.

4 Key information to resolve these issues is forthcoming. Both
5 AT&T Alascom and GCI are required to file by March 31, 1998,
6 reports regarding the costs and characteristics of facilities
7 deployment in rural areas. (See Attachment 1.) Further, the APUC
8 has opened a docket to investigate interexchange market structure
9 issues, with resolution expected in the near future. This market-
10 structure review is part of an overall reform of all of its
11 telecommunications policies. (See Attachment 2.) Preempting the
12 APUC at this point disrupts this process and the APUC's ability to
13 design a comprehensive policy for Alaska.

14 In conclusion, development of an overall universal service
15 policy is a difficult task as was proven by the Commission's own
16 review through CC Docket 96-45. Alaska faces extremely difficult
17 challenges to ensure consumers remain served at affordable rates.
18 The problems to be resolved (high-cost, climate, remoteness, . .
19 .) create greater risks to universal service than faced by other
20 areas of the nation. An incomplete market policy would impair
21 universal service and disrupt competition in Alaska.

22 The provisions of 3 AAC 52.355 remain necessary under
23 §253(b) until appropriate universal service and public safety
24 concerns can otherwise be addressed. The APUC must make this
25 analysis and determine how best to address 3 AAC 52.355.
26 Preempting 3 AAC 52.355 without allowing proper time for review by

1 the APUC would interfere with the APUC's ability to complete its
2 authorized jurisdictional obligations. As the Commission has
3 stated: "Congress has made clear that the States are not ousted
4 from playing a role in the development of competitive
5 telecommunications markets."³

6 Finally, allowing the APUC to complete its investigation will
7 provide the Commission with a better record for evaluating issues
8 related to 3 AAC 52.355, to the extent any remain once the APUC
9 has completed its review.

10
11 **III. Prematurely revoking 3 AAC 52.355 would compromise the public
12 safety and welfare.**

13 Under The Act, the APUC retains the right to require
14 certification to ensure safe telecommunications facilities in
15 rural areas. AT&T Alascom, the incumbent carrier, is subject to
16 engineering standards and has a long-running track record of safe
17 service statewide. The same may not be true of other carriers.

18 The APUC applies no minimum safety standards to the
19 installation and operation of nondominant interexchange carrier
20 facilities in Alaska. Such were not deemed critical given
21 assumptions regarding the competitive market, including APUC
22 control under 3 AAC 52.355 over construction in the most hard-to-
23 service areas of the state. If 3 AAC 52.355 were eliminated
24 immediately, carriers could build facilities in rural Alaska

25
26 ³CCBPol 96-13, CCBPol 96-14, CCBPol 96-16, CCBPol 96-19,
Memorandum Opinion and Order, FCC 97-346, re: Public Utility
Commission of Texas, et al. (Texas MO&O), at 52 (1997).

1 before the APUC had an opportunity to develop any necessary
2 service and safety standards. This is especially important given
3 that new entrants unfamiliar with arctic engineering practices may
4 risk the public safety. The APUC observes that even a relatively
5 experienced carrier such as GCI has had recent problems with
6 exploding earth stations in rural Alaska. (See Attachment 3.) The
7 APUC understands that the explosion at Shungnak was so severe that
8 it placed individuals and property at risk.⁴ This public safety
9 issue is further evidence that it is necessary to preserve 3 AAC
10 52.355 and that it is not in the public interest to revoke 3 AAC
11 52.355, without proper consideration of an overall policy to
12 accommodate its replacement.

13 **IV. Maintaining 3 AAC 52.355 while the APUC investigates the**
14 **matter has not been shown to cause material competitive harm.**
15 **Revoking 3 AAC 52.355 prematurely would not be competitively**
neutral.

16 The APUC has vast experience with the Alaska market. In the
17 APUC's view, the ability of all carriers to fairly compete is
18 compromised by selective elimination of policy requirements
19 without review of the consequences. Revoking 3 AAC 52.355 without
20 an adequate universal service mechanism and comprehensive market
21 structure rules could create significant harm by financially
22 disadvantaging the incumbent carrier responsible for universal
23 toll service.

24

25

26 ⁴GCI asserts it has corrected the problem that led to the
explosions.

1 Currently, AT&T Alascom is the only statewide provider of
2 long distance service. In the short-term there is no competitive
3 alternative to AT&T Alascom in 75 percent of the rural areas.
4 GCI's 50-site demonstration project⁵ offers an alternative,
5 potential backup, to AT&T Alascom facilities in only 25 percent of
6 the rural locations. But GCI's DAMA⁶ demonstration project cost
7 over \$19.6 million to serve only a limited number of rural
8 locations, with estimated annual revenues in 1996 of about
9 \$700,000. GCI's ability to serve the entirety of the market in
10 the immediate future, therefore, remains questionable. It is
11 possible that if 3 AAC 52.355 were lifted and if GCI were to
12 expand, it would serve the most profitable sites first, leaving
13 the remaining less-profitable sites to AT&T Alascom. The existing
14 universal-service system and market structure is not adapted to
15 such a situation.

16 Prematurely revoking 3 AAC 52.355, without adequate review of
17 the policy implications, could lead to a situation where AT&T
18 Alascom faces undue financial harm as a result of its carrier-of-
19 last-resort obligations, as explained in the previous section.
20 Thus, AT&T Alascom's ability to fairly compete in markets
21 statewide would be compromised and competitive neutrality
22 thwarted. Resellers employing AT&T Alascom's services would
23

24 _____
25 ⁵APUC Docket No. U-95-38; FCC Case No. 122-SAT-WAIV-95, GCI
26 Petition for Waiver of Bush Earth Station Policy, Memorandum
 Opinion and Order, 11 F.C.C.R. 2535.

⁶Demand Assigned Multiple Access.

1 likely experience higher costs if AT&T Alascom's rates increased
2 as a result of revoking 3 AAC 52.355.

3 The APUC therefore believes that serious questions exist as
4 to whether revoking 3 AAC 52.355 at this time results in a
5 competitively neutral outcome in all market segments.

6 In comparison, no evidence has been provided that 3 AAC
7 52.355, as it has been applied, will harm competitive neutrality
8 while the APUC investigates issues. Under existing rules
9 competitors can still serve statewide through lease of facilities
10 and resale, possibly more profitably than if they were to build
11 their own facilities.

12 At this time, no evidence has been presented that
13 construction of facilities necessarily offers a cheaper
14 alternative than resale in high-cost rural locations. For
15 example, the estimated installed costs for a GCI earth station
16 ranges between \$250,000 and \$350,000, with some serving under
17 150 access lines. Further, the most recent cost study submitted
18 by the APUC Staff indicated that the AT&T Alascom long-run average
19 and marginal costs for a low-density to low-density Alaska call to
20 be \$.80 per minute and \$.23 per minute, respectively.⁷ In
21 comparison, AT&T Alascom's wholesale rates range between \$.0076
22 and \$.0015 per switched minute and between \$.2407 and \$.0066 per
23
24

25
26 ⁷Implementing Intrastate Toll Competition in Alaska: A
Proposed Approach, Ben Johnson and Assoc., January 30, 1990, at
pg. 15.

1 minute for transport;⁸ with retail rates available for purchase by
2 a reseller, with rates ranging between \$.39 and \$.13 per minute.
3 Given the above, resale may be a desirable alternative over
4 facilities construction for many carriers. The APUC expects to
5 review this and other wholesale/retail rate issues in its market
6 structure proceeding.⁹

7 Resale allows competitors to serve statewide, including the
8 relatively small rural Alaskan sub-markets. In any event, nothing
9 prevents a carrier from seeking approval from the APUC to
10 construct facilities if it believes that resale is not a viable
11 option. The APUC points out that no competitor has sought and
12 been denied the ability to construct facilities at any specific
13 location in Alaska.

14 As a last point, the Commission itself recognized that
15 special conditions were needed in Alaska to ensure universal toll
16 service and protect the public interest.

17 First, the Commission restricted construction of duplicate
18 satellite earth station facilities in rural areas of Alaska. As
19 this federal policy is still in place, the Commission itself must
20 deem it premature to immediately lift the facilities restriction
21 in rural areas. The provisions of 3 AAC 52.355 is merely the
22

23 ⁸APUC Tariff No. 98, Sheet 361. Switching rates vary by time
24 of day. Transport rates vary by time of day and Category of
destination (e.g., density of route).

25 ⁹One of the issues raised by commentators before the APUC is
26 whether the wholesale and retail rates of AT&T Alascom are
properly set, with some arguing that wholesale rates are above
retail rates in some markets.

1 APUC's version of this federal policy. Allowing the APUC to
2 complete its investigation will provide the Commission a better
3 record from which to ultimately evaluate its own facilities
4 restriction policy, if it chooses to do so.

5 Second, in recognition of unique Alaska conditions, the
6 Commission placed responsibilities on AT&T Alascom to provide
7 rural satellite service.¹⁰ The Commission concluded that AT&T
8 Alascom's ability to provide satellite service would not be
9 compromised by a new Alaska market structure adopted through CC
10 Docket 83-1376 in part because "AT&T Alascom, as the facilities
11 based carrier for the Bush, will be able to recover the cost of
12 furnishing the service to that region. Other carriers must use
13 AT&T Alascom's facilities to provide service to the Bush."¹¹

14 Clearly if 3 AAC 52.355 and similar federal policies are
15 revoked at this time, it can no longer be assumed that AT&T
16 Alascom will be able to recover its satellite investment. A
17 policy review is needed to determine the affects of revoking the
18 3 AAC 52.355 on AT&T Alascom's satellite obligations.

19 In conclusion, the APUC found the record in its proceeding
20 inadequate to decide the 3 AAC 52.355 issues and decided to
21 further investigate. For example, one key piece of information
22 not available was current data regarding the GCI 50-site DAMA
23 demonstration project. That project data, together with AT&T
24

25 _____
26 ¹⁰See n. 1.

¹¹CC 83-1376, MO&O at 35.

1 Alascom data, would provide some indication of the effects of
2 lifting 3 AAC 52.355 and what actions the APUC should take to
3 reform its interexchange market structure and subsidy mechanisms.

4 As previously stated, these reports are scheduled to be
5 available March 31, 1998. The APUC Staff was directed to provide
6 its analysis of these reports on an expedited basis. The APUC
7 recognizes the need to act quickly on this matter, but cannot in
8 good conscience take action on 3 AAC 52.355 absent critical
9 evidence. At this time, insufficient evidence exists that 3 AAC
10 52.355 has not been applied in a competitively neutral manner such
11 that immediate preemption is necessary and the APUC is denied time
12 to complete its market review.

13 **V. Revoking 3 AAC 52.355 is unnecessary at this time.**

14 Eliminating 3 AAC 52.355 at this time is not necessary. Even
15 if 3 AAC 52.355 were eliminated, carriers would still be required
16 to comply with the Commission's own rules restricting duplicative
17 earth stations in rural Alaska. Furthermore, GCI itself has
18 stated that its construction schedules were such that there was
19 time for the APUC to review policy issues:

20
21 At the very earliest -- if all of the regulatory
22 obstacles were gone, at the very earliest we would put
23 public earth stations in rural Alaska would be a few
24 next summer. So it is -- there is -- as a practical
matter, there is time to address some carrier of last
resort issues before there's any big change in the
market place.¹² (Emphasis added.)

25
26 ¹²APUC Docket R-97-1, Transcript of October 6, 1997, oral
argument, at pg. 31, James Jackson, Counsel for GCI.

1 In any event, all carriers have the option of requesting the APUC
2 to approve construction in rural Alaska. Review of such requests
3 can occur quickly. When last processing such a request,¹³ the APUC
4 expedited its review so as not to interfere with GCI construction
5 schedules.

6 **VI. The Texas Preemption Decision is different from Alaska and**
7 **should not be deemed a precedent.**

8 On October 1, 1997, the Commission released its Memorandum
9 Opinion and Order preempting certain provisions of the Texas
10 Public Utilities Regulatory Act of 1995 (Texas PURA).¹⁴ This case
11 was used extensively by GCI in the Alaska proceeding to support
12 its position. There are several key differences between the Texas
13 decision and the Alaska petition:

14 1) The Texas case involved local exchange market issues while
15 Alaska's involves interexchange market issues.

16 With regards to the Texas case, the Commission reached the
17 following conclusion on section 253:

18 We find that Congress enacted section 253 to ensure that
19 no state or local authority could erect legal barriers
20 to entry that would potentially frustrate the 1996 Act's
21 explicit goal of opening local markets to competition.¹⁵

22 ¹³APUC Docket U-95-38, regarding the GCI 50-site DAMA
23 demonstration project. The APUC granted GCI approval of its
24 project within five months after submission of the request by GCI,
25 soon enough to not interfere with construction schedules. Issues
in the case went beyond waiver of 3 AAC 355 and included
local/interexchange carrier interconnection compensation issues.

26 ¹⁴Texas MO&O, see n.2.

¹⁵Texas MO&O at 41.

1 In the Texas case, the Commission also relied heavily on §251,
2 pertaining to local exchange markets, to interpret §253.¹⁶ Neither
3 §251 nor the above interpretation of §253 as reached in the Texas
4 case is applicable to the GCI preemption issue dealing with
5 interexchange markets.

6 2) Unlike the Texas case, the APUC is in the process of
7 review and may ultimately revoke the very rule for which
8 preemption is sought. A study (the GCI 50-site demonstration
9 project) is underway which will provide valuable information to
10 the APUC in reforming its market structure. If the Commission
11 takes no action on the GCI petition, the issues for which
12 Commission review is sought may well be resolved by the APUC, the
13 appropriate agency to address intrastate matters.

14 3) The preempted Texas PURA significantly affected
15 competitive neutrality statewide.¹⁷ For example, the Texas PURA
16 required utilities to invest significant funds in infrastructure.
17 In comparison, no entity has documented specific, material,
18 competitive harm caused by the way 3 AAC 52.355 has been applied
19 in Alaska.
20
21

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23 ¹⁶The Commission stated, "Specifically, we find that this is
24 the most reasonable interpretation of section 253(a) in light of
25 the express obligations imposed on incumbent [local exchange
carrier]'s by section 251 to enable new competitors to enter local
markets. . . ." Texas MO&O at 75.

26 ¹⁷For example, the Commission noted that AT&T estimated it
would cost approximately \$5.3 billion to comply with the Texas PUR
build out requirement. Texas MO&O at 79.

1 4) Those supporting the Texas PURA failed to prove it was
2 "necessary" to achieve the goals of universal service, public
3 welfare, quality telecommunications service, or to safeguard
4 consumer rights.¹⁸ The APUC has demonstrated that maintaining
5 3 AAC 52.355 is essential at this time and revoking 3 AAC 52.355
6 could harm universal service, competitive neutrality, and public
7 safety.

8 For all of the above reasons, the APUC believes that the
9 Alaska state regulation is distinguishable from the Texas
10 decision.

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¹⁸Texas MO&O at 83.

Summary

In conclusion, the APUC respectfully requests the Commission deny the petition of GCI as premature. The APUC is the appropriate agency to review issues related to 3 AAC 52.355.

RESPECTFULLY SUBMITTED this 25th day of February, 1998.

BY DIRECTION OF THE COMMISSION
(Commissioner Dwight D. Ornquist,
dissenting.)



By: Commissioner Sam Cotten
Chairman of the Alaska Public
Utilities Commission

Attachment 1

Data filing schedule and description of data to be filed.

STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Don Schröer, Chairman
Alyce A. Hanley
Dwight D. Ornquist
G. Nanette Thompson
Sam Cotton

In the Matter of the Request by)
GENERAL COMMUNICATION, INC., for)
Waiver of 3 AAC 52.355(a) and Approval) U-95-38
of a 50-Site Demonstration Project)

JOINT REPORT AND STIPULATION
REGARDING REPORTING REQUIREMENTS

As directed by the Commission in the Bench Order dated November 9, 1995, GCI, Alascom, and the Commission Staff hereby file the following report setting out the detailed reporting requirements these parties have agreed to.

1. GCI and Alascom will file the information identified in this stipulation on the dates and for the time periods specified below:

	<u>Time period</u>	<u>Date to be filed</u>
1st Report	1/1/96 to 9/30/96	December 1, 1996
2nd Report	10/1/96 to 12/31/96	Same as annual report
Subsequent Reports	1/1 to 12/31	Same as annual report

2. At the time of filing any report, GCI or Alascom may file a petition seeking confidential treatment of data in its report. Staff or any other party retain the right to oppose such requests.

Information to be reported by GCI

3. GCI agrees to submit the following information:

(a) Minutes Data: the originating and terminating minutes for each DAMA location, separately indicating state and interstate jurisdictional minutes. If actual terminating minutes are unavailable, GCI will so indicate and provide an estimate of the terminating minutes.

(b) Customer Data: the number of customers and originating revenues associated with each DAMA location using the following four categories: i) MTS and MTS-like services, ii) private line services, iii) other, and iv) total. For this item, customers may fit in more than one of the above 4 categories. For all revenue data, GCI will separately identify state and interstate revenues. GCI will also identify the services included in the "other" category.

(c) Investment and Expense Data: investment and expenses associated with each of the following categories: i) direct costs by location, including each remote site, regional center, and centralized control location; and ii) common costs not reported by location. GCI will also report (estimating as necessary) access costs by location showing NTS and TS state and interstate costs. GCI will identify any joint ventures or cross ownership arrangements with other providers of telecommunications services.

1 (d) Market Conditions Data: a brief description of all
2 significant characteristics of the market and changes in the
3 market for each location, including:

- 4 i) significant changes in demand, revenues or costs
of service;
- 5 ii) promotional offerings;
- 6 iii) implemented and planned upgrades in technology and
7 quality of service;
- 8 iv) locations where equal access has been requested,
where it has been provided, and anticipated
9 timetables for future equal access conversions;
- 10 v) outages, number of held orders, and inability to
provide services as tariffed;
- 11 vi) Local Exchange Carrier requested changes in
12 interconnection arrangements;
- 13 vii) list of locations where GCI is currently providing
14 wireless services.

15 (e) Report Coverage: a list of all locations where
16 DAMA equipment is installed, indicating those locations that are
17 not covered in the report. For those DAMA locations where the
18 information identified in this stipulation is not reported, GCI
19 will keep sufficient records to be able to file report data if
20 requested. DAMA locations include all 50 sites, associated
21 regional centers, centralized control locations, and any other
22 locations critical to the operation of the 50 Site DAMA project.

23 However, for those locations (e.g., Anchorage) served both by
24 DAMA and other technologies, GCI is required to report only the
25 DAMA services.
26